

ENTERED

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

May 11, 2018
David J. Bradley, Clerk

UNITED STATES OF AMERICA §
§
V. § CRIMINAL NO. H-17-651
§
DENIS AMAYA CABALLERO §
a/k/a ARNOLD LOPEZ, §
a/k/a/ "KEIKO," §
§
Defendant. §

REPORT AND RECOMMENDATION

Before the court, by referral pursuant to 28 U.S.C. §636(b), is the matter of the re-arraignment of Denis Amaya Caballero, defendant in this action. The court, having addressed Defendant personally in open court, now submits its Report and Recommendation.

On May 10, 2018, Defendant, Denis Amaya Caballero, appeared with counsel before the undersigned magistrate judge for the purpose of entering a guilty plea to Count 18 of the Indictment charging him with conspiracy to transport, move, conceal, harbor and shield from detection certain aliens present in the United States in violation of the law, in violation of the law, for the purpose of commercial advantage and private financial gain in violation of 8 U.S.C. §§ 1324(a)(1)(A)(ii), (iii) and (v)(I), and 1324(a)(1)(B)(i) and (iii).

Defendant, Denis Amaya Caballero, consented in writing to plead guilty before a United States Magistrate Judge. After

conducting said proceeding in the form and manner prescribed by Rule 11 of the Federal Rules of Criminal Procedure, this court makes the following findings of fact:

1. Defendant, Denis Amaya Caballero, after consultation with counsel of record and with the approval of the government, has knowingly and voluntarily consented to be advised of his rights and to enter a plea of guilty before a U.S. Magistrate Judge subject to final approval and imposition of sentence by United States District Judge Gray Miller.
2. Defendant Denis Amaya Caballero is fully competent and capable of entering an informed plea.
3. Defendant Denis Amaya Caballero is aware of the nature of the charges, the maximum punishment range and other penalties that may be imposed at sentencing.
4. Defendant Denis Amaya Caballero understands his constitutional and statutory rights and wishes to waive those rights.
5. Defendant Denis Amaya Caballero understands that the sentencing judge is not bound by any recommendation on sentencing made by either counsel for the government or counsel for the defendant, and that if a recommendation on sentencing is not followed by the sentencing judge, he may not withdraw his plea of guilty.
6. Defendant Denis Amaya Caballero's plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense charged in Count 18 of the Indictment.

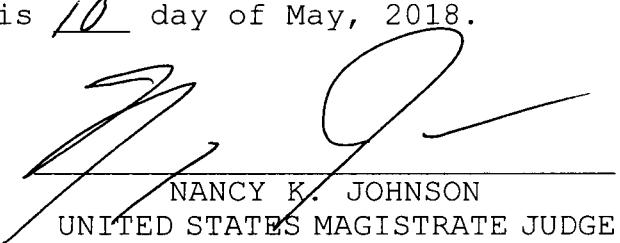
Based upon the foregoing findings, it is the **RECOMMENDATION** of the undersigned that the guilty plea of Defendant Denis Amaya Caballero to Count 18 of the Indictment be **ACCEPTED** by the court and that Denis Amaya Caballero be adjudged guilty of the offense alleged in Count 18 of the Indictment, to wit: conspiracy to

transport, move, conceal, harbor and shield from detection certain aliens present in the United States in violation of the law for the purpose of commercial advantage and private financial gain, in violation of 8 U.S.C. §§ 1324(a)(1)(A)(ii), (iii), and (v)(I) and 1324(a)(1)(B)(i) and (iii).

The Clerk shall send copies of this Report and Recommendation to the respective parties who have fourteen (14) days from the receipt thereof to file written objections thereto pursuant to Federal Rule of Civil Procedure 72(b) and General Order 2002-13. Failure to file written objections within the time period mentioned shall bar an aggrieved party from attacking the factual findings and legal conclusions on appeal.

The original of any written objections shall be filed with the United States District Clerk electronically. Copies of such objections shall be mailed to opposing parties and to the chambers of the undersigned, 515 Rusk, Suite 7019, Houston, Texas 77002.

SIGNED at Houston, Texas, this 10th day of May, 2018.



NANCY K. JOHNSON
UNITED STATES MAGISTRATE JUDGE